

Executive Summary – Enforcement Matter – Case No. 44869

City of Zavalla

RN101386100

Docket No. 2012-1752-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Zavalla water system, 838 East Main Street, Zavalla, Angelina County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$178

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$178

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 44869

City of Zavalla

RN101386100

Docket No. 2012-1752-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 23, 2012

Date(s) of NOE(s): August 6, 2012

Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the running annual average [30 TEX. ADMIN. CODE § 290.113(b)(1) and (f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 365 days, return to compliance with the MCL for TTHM; and
- b. Within 380 days, submit written certification demonstrating compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Jimmy Davis, Mayor, City of Zavalla, 838 East Main Street, Zavalla, Texas 75980

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	20-Aug-2012	Screening	28-Aug-2012	EPA Due	31-Dec-2012
	PCW	28-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Zavalla		
Reg. Ent. Ref. No.	RN101386100		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44869	No. of Violations	1
Docket No.	2012-1752-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jim Fisher
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$150
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	19.0% Enhancement	Subtotals 2, 3, & 7	\$28
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Notes Recommended enhancement for three NOV's with same/similar violations and two NOV's with dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$758
Approx. Cost of Compliance \$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$178
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$178
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$178
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$178
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Screening Date 28-Aug-2012

Docket No. 2012-1752-PWS-E

PCW

Respondent City of Zavalla

Policy Revision 3 (September 2011)

Case ID No. 44869

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386100

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 19%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Recommended enhancement for three NOVs with same/similar violations and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 19%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 19%

Screening Date 28-Aug-2012

Docket No. 2012-1752-PWS-E

PCW

Respondent City of Zavalla

Policy Revision 3 (September 2011)

Case ID No. 44869

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386100

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(b)(1) and (f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual average. Specifically, the running annual average concentration for TTHM was 0.096 mg/L for the fourth quarter of 2011, 0.144 mg/L for the first quarter of 2012, and 0.17 mg/L for the second quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Exceeding the MCL for TTHM has exposed customers of the Facility to significant amounts of pollutants that do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$758

Violation Final Penalty Total \$179

This violation Final Assessed Penalty (adjusted for limits) \$179

Economic Benefit Worksheet

Respondent City of Zavalla
Case ID No. 44869
Reg. Ent. Reference No. RN101386100
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Dec-2011	28-Feb-2014	2.16	\$36	\$721	\$758
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$758

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600248694	City of Zavalla	Classification: AVERAGE	Rating: 0.77
Regulated Entity:	RN101386100	CITY OF ZAVALLA WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE		0030030 0030030
Location:	838 EAST MAIN STREET, ZAVALLA, ANGELINA COUNTY, TEXAS			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	August 28, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 20, 2007 to August 20, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Jim Fisher	Phone: 239-2537			

Site Compliance History Components

- | | |
|--|----------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3. If YES, who is the current owner/operator? | N/A |
| 4. If YES, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. If YES, when did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: N/A | Repeat Violator: N/A |

Components (Multimedia) for the Site :

- | | | |
|----|--|-----|
| A. | Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | |

- | | | |
|---|------------|-----------|
| 1 | 07/27/2012 | (1021819) |
| 2 | 08/17/2012 | (1022048) |
| 3 | 02/14/2008 | (569964) |
| 4 | 08/21/2007 | (571922) |
| 5 | 02/28/2008 | (636387) |
| 6 | 07/31/2009 | (760677) |
| 7 | 03/16/2012 | (988855) |

- | | |
|----|--|
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
|----|--|

Date: 02/14/2008	(569964)	CN600248694	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)		
Description:	Failure to record the dates the dead-end mains were flushed.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(4)(B)		
Description:	Failure to monitor the disinfectant residual at representative locations in the distribution system at least once per day.		
Self Report?	NO	Classification:	Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide recorded copies of sanitary control easements for all land within 150 feet of Well No. 3.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain several well casing vents on the wells at Plant No. 3.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the hatch seal on the ground storage tank at Plant No. 3.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the hatches on the ground storage tanks at Plant No. 1.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
Description: Failure to have a sample connection on the 23,000 gallon ground storage tank at plant No. 1.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(6)
Description: Failure to provide a raw water sampling tap at Plant No. 3.

Date: 03/16/2012 (988855) CN600248694

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the turbidimeter for filter number 2.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)
Description: Failure to maintain the isolation valves located at the inlet and outlet of the housing for cartridge filter number 2.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(c)(1)
Description: Failure to submit a copy of the monitoring plan to the executive director.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)
Description: Failure to monitor and record the amount of caustic and gas chlorine used each day.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to check the accuracy of the well meters.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)
Description: Failure to record the results of accuracy checks conducted on the manual disinfectant residual analyzer.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(l)(4)
Description: Failure to monitor and record the pressure at the inlet and the pressure differential across each cartridge assembly, at least once each day.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)
Description: Failure to submit a planning report.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(l)(4)
Description: Failure to provide a production capacity of 0.46 gallons per minute (gpm) per connection.

Date: 03/28/2012 (1021819) CN600248694

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 4Q2011 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2011.

Date: 05/04/2012 (1021819) CN600248694

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 1Q2012 - The system violated the maximum contaminant level for

trihalomethanes during the 1st quarter of 2012.

Date: 07/09/2012 (1021819) CN600248694

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TTHM MCL 2Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2012.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

k. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ZAVALLA
RN101386100**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1752-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Zavalla ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 838 East Main Street in Zavalla, Angelina County, Texas (the "Facility") that has approximately 428 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on July 23, 2012, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual averages for the fourth quarter of 2011, the first quarter of 2012, and the second quarter of 2012, which were 0.096, 0.144, and 0.17 mg/L, respectively.
3. The Respondent received notice of the violations on August 9, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(b)(1) and (f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of One Hundred Seventy-Eight Dollars (\$178) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Hundred Seventy-Eight Dollar (\$178) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Hundred Seventy-Eight Dollars (\$178) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Zavalla, Docket No. 2012-1752-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
- a. Within 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

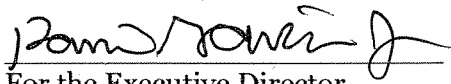
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/11/13

Date

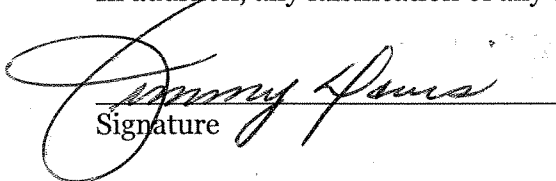
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Zavalla. I am authorized to agree to the attached Agreed Order on behalf of the City of Zavalla, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Zavalla waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10-10-12
Date

Jimmy Davis
Name (Printed or typed)
Authorized Representative of
City of Zavalla

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.